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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Applications of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.	CC Docket No. 97-211

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JUN 11 1998
FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

RENEWED MOTION TO DISMISS OR DENY OF GTE

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Dated: June 11, 1998

SUMMARY

WorldCom and MCI have had three opportunities to demonstrate that their merger would serve the public interest. Each time, they have failed to provide the data necessary to assess the competitive and consumer impact of combining the second and fourth largest long distance carriers and first and second largest Internet backbone providers.[1] Instead, they have challenged the applicability of the *Bell Atlantic/NYNEX* analytical framework, invented self-serving and indefensible market definitions, created boundless universes of most significant competitors, overlooked tremendous entry barriers, and propounded fanciful and entirely unsupported efficiency and synergy claims. In reality, the Applicants' competitive impact analysis cannot be reconciled with marketplace realities, and their anticipated efficiencies apparently result from reduced competition rather than cost savings that will benefit consumers.

Competitive Impact Analysis

WorldCom and MCI have overlooked or belittled compelling showings by GTE and other parties that the merger would have anticompetitive and anti-consumer consequences across a range of vitally important markets:

Domestic long distance. Residential and small business customers today face rates that are well above cost, although growing competition from resellers has partially constrained the oligopolistic pricing of the Big 3 IXCs to mass market consumers. As GTE and others have demonstrated, resellers are the maverick suppliers of retail

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[1] GTE's Internet-related arguments are set forth in a separate filing submitted today pursuant to DA 98-1059.

competition. WorldCom, without a recognizable retail brand, has empowered those resellers by supplying them with wholesale capacity at rates lower than could otherwise be obtained from the Big 3 IXCs if it were absent from the marketplace. The growth of these resellers has tracked the growth of WorldCom, because WorldCom's incentives have been to ensure the success of resellers that distribute its capacity to residential and small business customers.

Permitting the merger to proceed would undermine the existing retail competition engendered by resellers in the mass market because WorldCom's incentives would change, as would its behavior in the wholesale market. The proposed merger would reduce from four to three the firms that are the overwhelming source of long distance services consumed by mass market customers. Moreover, upon acquiring MCI's brand and lucrative retail customer base, WorldCom would no longer be as aggressive and responsive a wholesaler. Faced with the same incentives as the Big 3 possess today, and recognizing that wholesale sales to resellers cannibalize its retail branded sales, WorldCom would raise its wholesale rates and discontinue offering advanced capabilities to resellers in order to maximize the combined company's overall profits. That is, once WorldCom's incentives change, it would act rationally to maximize profits.

The Applicants offer no real defense to these showings. Instead, they deny the existence of a separate wholesale market and assert that new entry will assure a continued supply of inexpensive wholesale capacity in any event. In actuality, however, new entrants face tremendous barriers to entry that leave them years away from being able to replace WorldCom in the wholesale market. Significant among these are the very cost savings that the Applicants point to as a primary benefit of the merger: if the cost savings claims are correct, they cannot simultaneously argue that new entrants into the wholesale market will be able to offer competitively priced capacity, coverage, and network capabilities. Nationwide resellers such as GTE need suppliers of resale capacity that are geographically ubiquitous, reliable, and able to support advanced features in their networks. None of the new entrants will fit this description for at least five years. Consequently, the merger would inevitably harm residential and small business long distance consumers.

In addition, the merger would restrain competition in the market for retail sales of long distance services to larger businesses, which is currently dominated by the Big 3 and WorldCom. The merger would facilitate coordinated, oligopolistic conduct in this market, causing prices to large business customers to rise and the quality of service to fall.

Internet. As explained fully in GTE's Comments filed today, the combination of MCI and WorldCom would create an entity that would dominate the Internet backbone market. The proposed partial and highly conditioned sale of internetMCI does nothing to alleviate this risk.

International. GTE has shown that the merger would greatly increase concentration for both IMTS and international private line services to dozens of countries around the world. WorldCom and MCI do not even attempt to rebut this showing. Instead, to avoid the stark tale told by GTE's HHI calculations, they claim that GTE is using improper market definitions (even though GTE used the same product and geographic markets that the Commission has consistently used for the past dozen years).

According to the Applicants, all international services are perfectly substitutable and form a single homogenous market, even though users view IMTS and private lines as distinct products used for different purposes. The Applicants also argue for a global geographic market, ignoring the fact that the merger would create or enhance market power in dozens of IMTS and private line markets. They do not explain, however, why a U.S. citizen calling relatives in, for example, Argentina, where the merger would raise the HHI by hundreds of points (with a likely corresponding increase in the post-merger price), should take comfort from the fact that the merger's effects will be relatively modest in Peru. The fact remains that the merger would diminish competition on many routes for both IMTS and private line services, to the detriment of American consumers and businesses.

Local exchange. The core of the Applicants' public interest showing is that the merger will enable them to be an "icebreaker," opening the path to vibrant local exchange competition. They have not explained, however, how they can possibly act as an icebreaker, when WorldCom has a public and deep-seated aversion to serving local residential customers and MCI has scrambled to exit the residential marketplace ever since the merger was announced. The apparent fact is that both companies will focus on serving high-end local business customers – a market segment that is already benefiting from significant and growing competition. The merger, therefore, will freeze out residential customers rather than breaking the ice, and will remove a most significant potential competitor from the marketplace – a prospect that MCI characterized as raising serious competitive risks in its comments on the SBC/SNET merger.

Efficiency and Synergy Claims

The Applicants' sole support for their assertion that the merger will produce more than $20 billion in cost savings is a conclusory, superficial, and unilluminating affidavit from WorldCom's Treasurer. Remarkably, the only numbers in that document are at the bottom of each page; it is devoid of equations, calculations, algorithms, tables, spreadsheets, or any other shred of quantitative data or insightful analysis. In essence, the Applicants simply feel that disclosure of the facts and assumptions underlying their claimed savings would be "too hard."

Compounding the unverified and seemingly unverifiable nature of the claimed savings, the Applicants have not even attempted to rebut GTE's showing that the expected efficiencies are grossly overstated. To hear the Applicants tell it, the merger will be all gain and no pain: everywhere one looks, savings are ripe for the picking, and there are no appreciable offsetting costs. This is entirely untenable. For example, Worldcom and MCI have neither acknowledged nor sized the difficulties in integrating two disparate networks, a task that WorldCom's own Chief Operating Officer views with apparent alarm. Nor have they taken into account the opportunity costs of self-providing access and transport, which will offset a large amount of the anticipated savings, or shown how they can possibly achieve the claimed access cost reductions. Thus, there is every reason to believe that the claimed savings are hugely exaggerated and that any "savings" will flow largely from diminished competition.

* * *

When they filed their applications, WorldCom and MCI may have believed that they could treat the merger of two telecommunications titans as a run-of-the mill transaction that could be approved based on promises and platitudes. Since then, they have been given ample opportunity to correct their error. Their repeated failure to demonstrate that the adverse competitive effects of the merger would be outweighed by tangible and verifiable public benefits necessitates that their applications be dismissed or denied.

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To: The Commission

RENEWED MOTION TO DISMISS OR DENY OF GTE

GTE Service Corporation, its affiliated telecommunications companies,[2] and GTE Internetworking (collectively "GTE"), by their attorneys, respectfully submit their Renewed Motion to Dismiss or Deny the WorldCom/MCI transfer applications in the above-captioned proceeding.[3] On March 20, WorldCom and MCI filed a Second Joint

[2] GTE Alaska, Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., Contel of the South, Inc., GTE Communications Corporation, and GTE Hawaiian Tel International Incorporated.

[3] On June 1, MCI and WorldCom filed a Joint Reply characterizing the Renewed Motion to Dismiss of the Rainbow/PUSH Coalition and other parties as an "unauthorized pleading." This characterization is plainly erroneous. As explained in the Rainbow/PUSH filing, the pleadings that MCI and WorldCom have filed since GTE's original Motion to Dismiss fail to demonstrate that their merger would serve the public interest; accordingly, motions reiterating the need for dismissal are appropriate and warranted. In any event, the Commission's Rules do not bar renewed Motions to Dismiss, and this is an unrestricted proceeding for purposes of the ex parte rules.

(Continued...)

Reply[4] purporting to respond to showings by GTE and other petitioners that the Applicants had not demonstrated that the merger would serve the public interest. On June 3, MCI submitted an ex parte implying that the merger raises no serious competitive issues other than those relating to the Internet.[5] In reality, as detailed below and in GTE's Comments regarding Internet issues filed today pursuant to DA 98-1059, WorldCom and MCI have utterly failed to satisfy their burden of proof under the *Bell Atlantic/NYNEX* analytical framework. The Applicants have rejected the Commission's merger standards, ignored compelling evidence of the transaction's competitive harms, and refused to disclose underlying data and other information necessary to analyze the merger's purported pro-competitive benefits. Accordingly, the Commission must dismiss or deny the instant transfer applications.

I. WORLDCOM AND MCI STILL HAVE NOT COMPLIED WITH THE *BELL ATLANTIC/NYNEX* STANDARD.

A. The Applicants Have Had Three Bites at the Apple and Have Chosen To Ignore, Fight, and Or Unilaterally Modify the *Bell Atlantic/NYNEX* Standard on Each Occasion.

WorldCom and MCI have now had three full-blown opportunities to demonstrate to the Commission and the public that the proposed merger would serve the public

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Therefore, parties are free to submit additional information and arguments at any time in order to assist the Commission in its decision-making process.

[4] Second Joint Reply of WorldCom, Inc. and MCI Communications Corporation, CC Docket No. 97-211 (filed Mar. 20, 1998) ("Second Joint Reply").

[5] Letter from Mary L. Brown, Senior Policy Counsel, MCI, to Magalie Roman Salas, Secretary, FCC, dated June 3, 1998, at 1.

interest. They have failed on each occasion. Rather than adhere to the merger standard clearly defined in the *Bell Atlantic/NYNEX Order* and applied in subsequent merger proceedings, the Applicants continue to sidestep their obligations. In their Second Joint Reply, WorldCom and MCI go so far as to suggest that they should be held to a different, more lenient standard than all other merger applicants.[6] This argument is nothing more than the latest in a series of maneuvers designed to evade scrutiny and obscure the merger's anticompetitive effects.

The Applicants expend more time and energy coming up with excuses as to why they should not be required to make the requisite showings under *Bell Atlantic/NYNEX* than demonstrating how the merger will affect competition and consumers. They have made every attempt to circumvent their obligations, including trying to shift the burden of proof to interested third parties[7] and unilaterally rewriting the Commission's merger standard. Enough is enough. There is simply too much at stake to allow WorldCom and MCI to shirk their mandated responsibility of proving that the proposed union of these companies will further the public interest.

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[6] *See* Second Joint Reply at 97-99.

[7] *See, e.g.*, Joint Reply of WorldCom and MCI (filed Jan. 26, 1998) at 31 ("petitioners offer no economic testimony addressing" the reduction of competition in the long distance market); *id.* at 33 ("petitioners present no evidence other than HHI figures to support their claim . . . .")

B. Instead of Making a Reliable and Credible *Bell Atlantic/NYNEX* Showing, the Applicants Have Concocted Unprecedented and Unsupportable Market Definitions, Ignored the Merger's Anticompetitive Effects, and Proffered Unverifiable Efficiency Claims.

While purporting to follow the *Bell Atlantic/NYNEX* analytical framework, the Applicants merely mouth the words while disregarding the substance of this standard. Indeed, the Second Joint Reply has an unmistakable Alice-in-Wonderland quality: words mean what the Applicants want them to mean, nothing more and nothing less. All services and markets are interchangeable; there are no meaningful distinctions among different customer classes; geographic markets either span the globe or are confined within individual conduits; and the list of most significant participants is as short or as long as suits WorldCom and MCI's immediate needs.

The Commission must resist the Applicants' invitation to go through the looking glass. Their persistent efforts to obfuscate and distort cannot mask the serious and pervasive anticompetitive effects of the proposed merger in the real world. The Second Joint Reply neither fills the yawning information gaps left by the Applicants' earlier filings nor rebuts the compelling showings of harm made by GTE and a multitude of other petitioners. The fact remains that the merger would injure consumers – and certainly would do nothing to benefit consumers – in several critical markets.

Interexchange.[8] WorldCom and MCI continue their campaign to invent new product and geographic market definitions for interexchange services (Section II).

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[8] GTE's position on the adverse effects of the proposed merger on retail and wholesale interexchange markets is supported by the attached Long Distance Reply Affidavit of
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Under their approach, domestic interexchange services form an amalgamated market with no distinctions between wholesale and retail products; the relevant geographic market for all interexchange services and inputs is nationwide; and there are only two customer segments (mass market products and business products). The Applicants also include hundreds of small and start-up interexchange carriers operating on local or regional bases in their list of most significant market participants.

As GTE has demonstrated throughout this proceeding, reality tells a different story. There are distinct differences between wholesale and retail services that make them separate and unique markets. In addition, differences in the demands and needs of customer classes demonstrate the propriety of separately analyzing the impact of the merger on each class. Coordinated pricing of mass market services continues to be a real problem that will only worsen as the already minimal number of most significant market participants is reduced by one. Moreover, the only source of real competition for mass market consumers – resellers, who are largely dependent on WorldCom for capacity – will be undermined as WorldCom ceases to act as a maverick supplier in order to protect profits from its newly-acquired retail customer base. Finally, contrary to the Applicants' assertions, entry into the marketplace will not be timely, sufficient, or likely to offset the loss of WorldCom as a responsive, low-cost wholesaler. It is thus

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Dr. Robert G. Harris ("Harris LD Reply Affidavit") (Appendix 1 hereto) and by the attached Reply Affidavit of Drs. Richard Schmalensee and William Taylor ("Schmalensee/Taylor Reply Affidavit") (Appendix 2 hereto).

little wonder that Wall Street analysts expect the merger to enhance profits for all of the incumbent large IXCs.

Internet. As explained in GTE's separate Comments filed today pursuant to DA 98-1059, the merged company would be, by any reasonable definition, a behemoth in the Internet backbone market, capable of wreaking all kinds of competitive harm. The proposed limited sale of MCI's non-retail customer base would do nothing to diminish the deleterious impact of the merger.

International. WorldCom and MCI's misguided approach also permeates their analysis of the international marketplace (Section III). They assert that all international services are perfectly substitutable and form a single homogenous market, even though users view IMTS and private lines as distinct products used for different purposes. The Applicants also cast aside the Commission's well-established, route-specific international geographic market definition, ignoring the fact that the merger would create or enhance market power in dozens of IMTS and private line markets. They do not explain why a U.S. citizen calling relatives in, for example, Argentina, where the merger would raise the HHI by hundreds of points (with a likely corresponding increase in the post-merger price), should take comfort from the fact that the merger's effects will be relatively modest in Peru. These concerns, notably, are not offset by any likely or tangible benefits; the Applicants fail to explain why the anticipated innovation and increase in global services could not be achieved without the merger.

Local Exchange and Exchange Access. The Applicants' analysis of the local exchange market is riddled with gaps and inconsistencies (Section IV). According to MCI and WorldCom, the core of their public interest showing is that the merger would enable them to be an "icebreaker," opening the path to vibrant local exchange competition. However, they continue to withhold any information upon which to assess the likelihood of this claim. Nor have they explained how they can possibly act as an icebreaker, when WorldCom has a public and deep-seated aversion to serving local residential customers and MCI has scrambled to exit the local residential marketplace ever since the merger was announced. The apparent fact is that both companies will focus on serving high-end local business customers – a market segment that is already benefiting from significant and growing competition. The merger, therefore, will freeze out residential customers rather than breaking the ice, and will remove a most significant potential competitor from the marketplace – a prospect that MCI characterized as raising serious competitive risks in its comments on the SBC/SNET merger.

Efficiencies and synergies. The Applicants' sole support for their claim that the merger will produce more than $20 billion in cost savings is a conclusory, superficial, and thoroughly unilluminating affidavit from WorldCom's Treasurer (Section V). Remarkably, the only numbers in that document are at the bottom of each page; it is devoid of equations, calculations, algorithms, tables, spreadsheets, or any other shred of quantitative data or insightful analysis. In essence, the Applicants simply claim that disclosure of the facts and assumptions underlying their projected savings would be "too hard." Compounding the unverified and seemingly unverifiable nature of the purported cost savings, the Applicants have not even attempted to rebut GTE's showing that the anticipated efficiencies appear to be grossly overstated. They have neither acknowledged nor sized the difficulties in integrating two disparate networks, a task that WorldCom's own Chief Operating Officer views with apparent alarm. Nor have they taken into account the opportunity costs of self-providing access and transport, which will offset a large amount of the asserted savings, or shown how they can possibly achieve the expected access cost savings.

Indeed, even if one accepted the Applicants' claims of cost savings as true, the necessary conclusion would be that virtually insurmountable barriers to entry exist in the relevant markets, despite their protestations to the contrary. Such savings could be realized only if the combined companies' increased size permitted them to enjoy tremendous additional economies of scale. Economies of this magnitude, however, could never be achieved by the new entrants whom the Applicants tout as an effective check on potential anticompetitive conduct.

In short, after three tries, the Applicants have failed to disclose any information showing that the claimed cost savings are likely, verifiable, and result from true, merger-related efficiencies rather than an ability to raise price or restrict output. While the expected savings may well "drive the merger," as MCI has recently asserted, they are not "procompetitive."[9] In reality, it seems clear that whatever "savings" the Applicants enjoy will actually stem from enhanced profit margins resulting from reduced competition in key markets. Such an outcome plainly does not advance the public interest.

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[9] *See* MCI June 3 ex parte at 4.

Set forth in detail below is a market-by-market analysis of the impact of the proposed merger, which once again demonstrates that the union of these two companies would have serious adverse effects on competition and consumers. The Applicants have been given three tries to demonstrate otherwise, and they have failed each time to provide even the minimum information necessary to support their claims that the merger would advance the public interest. The time has come to dismiss or deny the applications.

II. THE MERGER WOULD DESTROY WORLDCOM'S INCENTIVES TO ACT AS A MAVERICK SUPPLIER OF WHOLESALE LONG DISTANCE CAPACITY, UNDERMINING THE ABILITY OF RESELLERS TO CHECK TACIT PRICE COLLUSION OF RESIDENTIAL AND SMALL BUSINESS SERVICES BY THE REMAINING BIG THREE IXCS.

MCI and WorldCom continue to insist that the combination of the second and fourth largest providers of retail long distance services, and the first and third largest wholesalers, "will not harm, and can only enhance, vigorous competition in the interexchange market."[10] However, while the Applicants purport to present their response "under the four categories of analysis spelled out in the Commission's *Bell Atlantic/NYNEX* and *BT/MCI* decisions,"[11] they proffer market definitions that ignore Commission precedent and withhold information that is essential to any meaningful competitive assessment. In the Applicants' view of the world, all services and customers are fungible, all geographic routes have unlimited capacity, and all

[10] Second Joint Reply at 20.

[11] *Id.* at 23.

competitors will provide any retail or wholesale service to any customer anywhere at rates determined through vigorous and unbridled competition.

Reality is quite different. Contrary to MCI's and WorldCom's claims, there are distinct wholesale and retail markets: GTE and other resellers have unique needs for coverage, reliability, network management capabilities, and advanced features that are not met by retail offerings. Further, there are distinct customer segments with different needs. For example, residential and small business customers do not issue requests for proposals (RFPs) and cannot qualify for the IXCs' discounted contract tariffs.

MCI and WorldCom also claim that "GTE has greatly exaggerated the barriers to entry and expansion."[12] There are, however, significant barriers to entry that will prevent both the RBOCs and any of the new fiber networks from being an effective competitor to WorldCom in the wholesale market for at least five years. As GTE showed in its Comments, AT&T, MCI, and Sprint do not currently offer competitive rates to mass market consumers.

Resellers are the sole source of price competition for these customers, and the largest number of resellers obtain underlying capacity from WorldCom. Indeed, resellers accounted for about 25 percent of 1997 residence and low-volume business revenues, and WorldCom's share of wholesale long distance revenues increased from 13 percent in 1989 to roughly 38 percent in 1997.[13] If the merger were approved, WorldCom would have no incentive to continue serving the wholesale market in the

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[12] Second Joint Reply at 37.

[13] *See* Schmalensee/Taylor Reply Affidavit at 41.

same aggressive manner because of its newly acquired, large base of retail customers.[14] The merger, therefore, would result in higher prices and less responsive service for mass market consumers of long distance services.

A. The Applicants' Failure To Identify Separate Retail and Wholesale Long Distance Product Markets and Distinct Customer Categories Flouts *Bell Atlantic*.

1. By any reasonable definition, the supply of wholesale capacity to resellers is a separate product market from the supply of retail services to end users.

Ignoring the Commission and their own experts, MCI and WorldCom continue to assert that wholesale and retail services do not constitute separate interexchange markets.[15] The Commission, however, has recently reiterated that "in defining relevant markets, we may distinguish 'end-user markets,' where the product or service is sold to end-user customers, and 'input markets,' where the product or service is sold to firms for use as an input to supply other products and services."[16] Moreover, the Commission has "the authority to narrowly define product markets if it deems appropriate ...."[17]

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[14] *Id.* at 35-40.

[15] Second Joint Reply at 23-24.

[16] *Application of Motorola, Inc. Transferor, and American Mobile Satellite Corporation Transferee, for Consent to Transfer Control of Ardis Company*, Memorandum Opinion and Order, 13 FCC Rcd 5182, 5189 (1998) ("*Motorola/AMSC Order*").

[17] *Id.* at 5194.

Considering the wholesale and retail markets separately is clearly appropriate in this case, given the significant risk of harm to resale competition.[18]

Because WorldCom has only a small percentage of the retail market, it has chosen to be the most aggressive provider of wholesale capacity.[19] Resellers, including GTE, are the only carriers bringing some competitive choice to the mass market.[20] As a group, these resellers rely more on WorldCom than on any other supplier of underlying capacity. If WorldCom were to change its focus away from the wholesale market, resellers would have difficulty finding sufficient capacity at prices low enough to allow

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[18] The orders cited by the Applicants do not demonstrate that there is a single interexchange market. In the *AT&T Non-Dominance Order*, which was decided two and one-half years ago, the Commission considered only the retail market in making its decision and did not address the wholesale market at all. *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, 11 FCC Rcd 3271 (1995) ("*AT&T Non-Dominance Order*"). In the more recent *LEC In-Region Interexchange Order*, the Commission determined that separate product markets could only be identified "in the context of assessing the market power of a particular carrier or group of carriers." *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 12 FCC Rcd 15756, 15783 (1997) (footnote omitted) ("*LEC In-Region Interexchange Order*"). The Commission also stated that if "there is credible evidence indicating that there is or could be a lack of competitive performance with respect to a particular service or group of services," this could warrant consideration of separate product markets. *Id.* The proposed merger between MCI and WorldCom is exactly such a case.

[19] GTE Comments CC Docket No. 97-211, filed March 13, 1998, at 32-38.

[20] Resale allows competitive entry in the long distance retail market if wholesale services are available at competitive rates. However, retail entry does not address the harm to resellers from the adverse effects of the merger on wholesale markets.

them to continue to bring the benefits of competition to residential and small business customers.[21]

2. The Commission has found that different categories of retail customers face different market choices, requiring that the effects of the merger on each group be examined separately.

MCI and WorldCom also claim that "there are no separate customer product markets," but concede that "there are different customer classes that can usefully be identified for long distance."[22] The reason that customer groups can be usefully identified is that they face different market conditions and thus need to be considered separately. The Applicants still have not provided information sufficient to determine whether (1) all customer groups face a similar range of competitive choice, and (2) the combined company would have greater market power in serving particular classes of end users. Instead, MCI and WorldCom blithely allege that "as long as there are at least two carriers offering long-distance service, business buyers 'have a chance at pushing the price all the way down from the monopoly level to the level of cost,'"[23]

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[21] Notably, the Applicants' own experts, Drs. Carlton and Sider, continue to discuss separately the retail and wholesale markets, and the different factors that affect each product set. Second Joint Reply, Carlton/Sider Declaration at 18-36. However, they confuse wholesale and retail markets and disregard the difference between individual inputs and the complete wholesale service WorldCom provides. Schmalensee/Taylor Reply Affidavit at 7-8.

[22] Second Joint Reply at 24.

[23] *Id.* at 25-26 (citation and footnote omitted).

without even discussing the substantial evidence that WorldCom has offered different services and significantly better prices than any other competitor.[24]

In addition, it cannot be disputed that customers within the same category, *e.g.*, retail residential, are subject to price discrimination. The Big 3 are able to offer a variety of prices depending on the price sensitivity of each customer.[25] Each offers a plethora of plans at different rates and a substantial number of customers consume long distance services without calling plans at even higher rates. Even though these plans purportedly are available to all customers, the Big 3 choose to market them quite selectively, lowering prices only when they must. For instance, if GTE's long distance affiliate convinces a retail residential MCI customer to switch, MCI is able to call that customer and offer discounted service or other incentives to return. The MCI subscriber next door continues to go on paying the higher rate.

Further, the Applicants, although acknowledging that WorldCom provides wholesale services to carriers that provide retail services, contend that "the merger would have no discernible impact [on mass market consumers] because WorldCom has an insignificant market share."[26] This claim makes no sense. Although WorldCom has only a small retail market share, it is the dominant wholesale carrier with a 37.7 percent weighted share of the market.[27] The carriers reselling WorldCom's capacity are

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[24] GTE Comments at 33-34.

[25] *See* GTE Comments, Appendix 4, Schmalensee/Taylor Affidavit at 30-33.

[26] Second Joint Reply at 26.

[27] Schmalensee/Taylor Affidavit, Exhibit 8.